



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
 COMMUNITY DEVELOPMENT**
 Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

DHCD Section 8 Administrative Plan – Project Based Voucher Assistance
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31 Project-Based Voucher (PBV) Assistance

31.1 General

On October 13, 2005, HUD published the final rule for the Project-based voucher program. This rule can be found at 24 CFR Part 983.

All regulations governing the tenant-based Housing Choice Voucher Program (HCVP) program, found at 24 CFR 982, are applicable to the PBV program, with the exception of those sections listed at Parts 983.2(b) and (c) and described in Attachment A to this PBV administrative plan.

The PBV has two components:

New Construction/Rehabilitation, referred to as “**Development**” PBV (for units that will be newly constructed or rehabilitated) and “**Existing**” PBV (for occupied or ready to be occupied units)

This administrative plan establishes DHCD’s PBV policies and procedures for each area of program operation required by 24 CFR Part 983. It also includes discussion about many other important areas of PBV program administration that will assist our regional agency administrators (RAA) undertake careful and accurate administration of this valuable Section 8 program component. This plan has been designed to closely mirror the structure of 24 CFR Part 983. Key DHCD PBV policy considerations, as they may be amended from time to time, are also included in DHCD’s Annual PHA Plan.

N.B. This plan does not apply to the former project-based certificate (PBC) program. Units under the PBC program are subject to the provisions of 24 CFR Part 983 codified as of May 1, 2001, with the exception of the term of renewal, discussed in the October 13, 2005 final rule at 983.10. This section limits extension of PBC HAP contracts to an aggregate term of 15 years.

PHA Discretion to operate a PBV Program (983.5(c) and Maximum Amount of PBV assistance (983.6 (a))

DHCD began exercising its discretionary authority to operate a project-based component in 1991 and will continue to exercise this option under the October 13, 2005 final rule. The option to set-aside up to 20% of HCVP budget authority (983.6(a)) will continue to permit DHCD to develop and maintain long-term safe, decent and affordable housing that is accessible to its Section 8 applicants and program participants. DHCD has not set a specific goal for the amount of its budget authority that it will dedicate to its PBV program; however, in any given calendar year, DHCD reserves the right to utilize up to 20% of its budget authority for its PBV program.

31.2 Selection of PBV Owner Proposals

31.2.1 Two approved methods for proposal selection (983.51(b)(1) and (2))

The final rule establishes two methods that a PHA can use to select owner proposals. These methods are found at 983.51(b)(1) and (2).

1. 983.51(b)(1) permits the PHA to publicly issue a competitive request for PBV proposals.
2. 983.51(b)(2) permits the PHA to select proposals that have successfully competed for housing assistance under a federal, state, or local government housing assistance, community development, or supportive services program, provided the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

DHCD will use both methods of PBV proposal selection.

31.2.2 Public notice of DHCD request for PBV proposals (983.51(c))

Public notice is required for PBV proposals that will be selected under 983.51(b)(1).

Just like HUD, DHCD utilizes its web page at www.mass.gov/dhcd/ to make public all major announcements and all key documents for its entire complement of housing and community development programs and activities. Key areas of public notification for which DHCD utilizes its web page include, but are not limited to: Notifications of Funding Availability (NOFA) and Requests for Proposals (RFP); all major policy documents such as the Consolidated Plan, the Qualified Allocation Plan and the Section 8 Annual and Five-year PHA Plan, regulations, guidelines and dates for public hearings.

DHCD will announce all PBV NOFAs and any subsequent modifications to these PBV NOFAs on its website.

31.2.2.1 Public announcement of "Existing" PBV NOFAs

"Fixed date-due" NOFAs will be announced at least four weeks in advance of the prescribed due date. NOFAs for **"rolling"** applications will be announced at least three weeks in advance of the initial application acceptance date. Any modification(s) to an "existing" PBV NOFA will be announced on the website and will indicate an effective date of the modification(s) including, in the case of "rolling" applications, the date at which DHCD will no longer accept additional applications.

DHCD reserves the right to implement more than one "existing" PBV initiative at a time. In this instance, the specific NOFA requirements of each initiative will be publicly announced as described above.

31.2.2.2 Public announcement of “Development” PBV NOFAs

DHCD’s Division of Housing Development (DHD) administers the Commonwealth’s Low Income Housing Tax Credit (LIHTC) program, the HOME program, and several other federal and state funded development programs. Twice a year DHD solicits proposals and awards funds for these development programs based on publicly announced competitive selection criteria established for each of them. These solicitations are referred to as DHCD’s bi-annual One Stop Affordable Housing Funding rounds. (See Attachment B for a complete discussion of each development program administered by DHCD’s DHD, including program descriptions, the selection criteria and selection team composition.) DHCD also partners with MassHousing, the state’s affordable housing bank, to administer on DHCD’s behalf, the Commonwealth’s Affordable Housing Trust Fund (AHTF).

DHCD currently operates two “development” PBV initiatives:

1. An initiative linked to DHCD’s bi-annual One Stop Affordable Housing Funding round; and
2. An initiative linked to DHCD/MassHousing’s Affordable Housing Trust Fund (AHTF).

DHCD reserves the right to implement additional “development” initiatives.

31.2.2.3 Public announcement of bi-annual One Stop NOFAs

Bi-annual One Stop NOFAs will be announced on DHCD’s website in three different locations:

1. [DHCD Home Page](http://www.mass.gov/dhcd/) <http://www.mass.gov/dhcd/>
2. [Bureau of Federal Rental Assistance Home Page](http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM)
<http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM>
3. [Housing Development Home Page](http://www.mass.gov/dhcd/components/housdev/default.HTM)
<http://www.mass.gov/dhcd/components/housdev/default.HTM>

The Division of Housing Development (DHD) has established an “[e-Source Center](#)” a web-based list-serve that automatically sends notices of new funding initiatives, documents relating to all their various development programs, announcements of public hearings and other important notices to any agency or person who signs up for this list-serve. The e-source center is widely subscribed to by the development community in Massachusetts and accessible to anyone to receive e-source center notices on the Housing Development website.

31.2.2.4 Public announcement of AHTF and any future development initiative

AHTF announcements and any future development initiatives will be announced on DHCD’s website at: [Bureau of Federal Rental Assistance Home Page](http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM)
<http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM>

Selection of publicly solicited PBV proposals (983.51(b)(1))

31.2.2.5 “Existing” PBV proposals

Each NOFA, its respective proposal application and review criteria will be posted on DHCD’s website. DHCD will screen all “existing” PBV proposals and make all proposal selections. It will consult with the applicable RAA prior to making a final commitment of PBV funds for each project. For “rolling” NOFAs, DHCD will announce on its website the date it will stop accepting these PBV proposals. They proposals will be reviewed on a rolling basis as they are received unless otherwise stated in the NOFA’s proposal selection requirements.

Awards will be contingent upon: 1) the availability of voucher and budget authority at the time the project is projected to be ready for occupancy; and, 2) the proposal’s consistency with the published review criteria.

31.2.2.6 “Development” PBV proposals linked to One Stop affordable housing funding rounds

Each respective NOFA for these programs will indicate if DHCD “development” PBVs will be made available to any applicant that requests PBVs and successfully competes for the development funds. The NOFA will indicate the maximum number of PBVs that could be made available for successful One Stop applicants and will emphasize that the proposal must be otherwise compliant with all PBV requirements.

31.2.2.7 “Development” PBV proposals linked to MassHousing Affordable Housing Trust Fund

MassHousing, which has been designated by DHCD to administer the AHTF program on its behalf, will award AHTF funds to those projects that have requested PBVs, using the publicly announced selection criteria previously approved by DHCD and HUD. The AHTF NOFA indicates that the proposal must be otherwise compliant with all PBV requirements. These funds are awarded on a rolling basis.

31.2.2.8 “Development” PBV proposals for any future initiative

Awards of PBV assistance for any future development initiative that DHCD may elect to implement will be made by DHCD and/or a publicly announced partner agency designated by DHCD for this purpose.

31.2.2.9 Written notification of PBV selection to owner

Once an application has been screened and selected for PBV assistance on either the “existing” or “development” component, the BFRA will issue a notice of “conditional reservation” of PBV assistance to the owner/project sponsor. This letter will advise the owner/project sponsor of all further requirements that must be satisfied prior to executing the Agreement to Enter Into a Housing Assistance Payments (AHAP) contract (in the case of “development” projects), or the Housing Assistance Payments Program (HAP) contract (in the case of “existing” projects.) Examples of these requirements could include, but are not limited to, satisfactory completion of the subsidy layering review (SLR), the environmental review (ER), approval of the owner’s tenant selection plan, and final inspection of the units for HQS compliance. The letter will advise the owner/project sponsor that failure to complete all requirements for approval by HUD (where required) and DHCD will mean that

DHCD will not be able to provide PBV assistance to the project. (See further discussion in Section 31.4.1).

31.2.3 Selection of PBV proposals previously selected through a non-PBV competition (983.51(b)(2))

At its option and on a case-by-case basis, DHCD may entertain requests to attach PBV assistance to units previously selected by a non-PBV competition, in accordance with the requirement of 983.51(b)(2)), under the following circumstances:

- Adequate PBV voucher and budget authority is projected to be available when the units are ready for occupancy;
- The request meets a compelling need and is otherwise consistent with DHCD's long-term affordable housing goals;
- The project is otherwise in compliance with all HUD and DHCD PBV requirements.
- Number of units requested and target population is consistent with current DHCD PBV NOFA requirements

The owner/project sponsor must initiate a written request for PBV assistance to DHCD accompanied by a letter from the "selection agency" that competitively selected the project for housing assistance under a federal, state or local government program. This letter, submitted on the "selection agency's" letterhead and signed by an authorized official, must include the following information:

1. Date of the proposal selection;
2. A certification that the proposal was competitively selected by the agency in full compliance with all publicly advertised selection requirements;
3. A statement that proposal selection did not involve any consideration that the project would receive PBV assistance.
4. A copy of the NOFA or other similar solicitation for affordable housing assistance that the owner/project sponsor responded to; and,
5. A description of the housing program for which the applicant successfully competed, noting any special deed restrictions and/or special considerations such as tenant selection preferences.

When DHCD receives the "selection agency" letter, it will request that the owner/project sponsor fill out a DHCD PBV application, and subsequently determine if a reservation of PBV can and will be made.

31.2.4 Public notice of DHCD PBV owner/project sponsor selection (983.51(d))

Once DHCD has received all required HUD approvals to proceed to AHAP or HAP and all other program requirements have been met, DHCD will publicly announce the selection of owner proposals on its website at: www.mass.gov/dhcd/; >Divisions; >Public Housing and Rental Assistance; >Bureau of Federal Rental Assistance.

31.2.5 PHA-owned units (983.51(e))

The final rule permits PBV assistance to be attached to PHA-owned units. It expands the definition of PHA-owned housing to include “agents” of the PHA who hold a direct or indirect interest in the building in which the PBVs will be located. Therefore, any proposal for PBV housing in which a DHCD Section 8 RAA has a direct or indirect interest must be considered PHA-owned housing.

All PHA-owned proposals must be approved by HUD, or an independent entity selected by HUD, after DHCD has granted its preliminary approval.

DHCD will employ the following selection process for any PHA-owned housing:

31.2.5.1 “Existing” PBV PHA-owned unit proposals:

31.2.5.1.1 “Rolling” NOFAs

Where DHCD’s “existing” NOFA provides for proposals to be submitted on a rolling basis, DHCD will review the proposal(s) as they are received and make awards based upon its published criteria. Any rolling “existing” PHA-owned proposal selected by DHCD will be forwarded to HUD for its review and approval. When making the approval request, DHCD will forward to HUD: 1) the owner/project sponsor application and all attachments; 2) the NOFA under which the proposal was submitted; and 3) the selection criteria used by DHCD to make its determination.

31.2.5.1.2 “Fixed Due-Date” NOFAs

Where DHCD’s “existing” NOFA provides for a “fixed due-date”, DHCD will forward to HUD a list of all applications received and a list of all applications selected in addition to items 1-3 above.

Where DHCD’s publicly announced “existing” PBV initiative gives preference consideration to proposals that make vacant units available, DHCD will request that HUD make its review determination as soon as possible. DHCD will provide HUD with any additional information it requests to expeditiously process these approval requests expeditiously.

31.2.5.2 “Development” PBV PHA-owned unit proposals

These proposals will have been selected according to the published criteria announced by DHCD’s Division of Housing Development or MassHousing (or a future partner agency for a new “development” PBV initiative). A program description, a funding competition description for each program, the proposal evaluation and selection criteria for each program, and the team performing the screening and selection for each development program is provided in **Attachment B**. If HUD requires additional information to demonstrate that these projects have been selected in accordance with the respective development program’s competitive selection criteria, DHCD will request that its Division of Housing Development and/or MassHousing (or any future partner agency) provide the additional information requested. Once HUD approval to proceed has been received, DHCD will issue the owner a

written notification of PBV selection contingent upon the project meeting all PBV requirements.

31.2.5.3 Rents and inspections in PHA-owned PBV units (983.59(b)(1) and (2) and 983.103(f))

For both “existing” and “development” PHA-owned PBV units all inspections and determinations of reasonable rent must be completed by an independent entity approved by HUD. Further, the initial contract rent must be based upon an appraisal performed by a licensed, state-certified appraiser.

31.2.6 Housing type - high rise elevator project for families with children (983.53(b))

A high-rise elevated building is defined by HUD as any building with 5 or more stories with an elevator. The final rule prohibits attaching PBV assistance to a high-rise elevator project that may be occupied by families with children unless the PHA initially determines there is no practical alternative (e.g., as a reasonable accommodation for a household member who is mobility impaired), and HUD approves such a finding. The PHA may make this determination on a project-by-project basis. Prior to approving any such proposals, DHCD will consult with the Boston HUD office to ascertain what type of documentation would be required to potentially support such PBV projects based upon each project’s particular demographics.

31.2.7 Subsidy layering review (SLR) - prohibition of excess public assistance (983.55)

SLRs must be completed and approved by HUD for all “existing” and “development” PBV projects that utilize other publicly supported housing funds.

The SLR is “intended to prevent excessive public assistance for the housing by combining (layering) housing assistance subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.” HUD indicates in the preamble to the final rule that it will issue additional guidance on the requirements for processing SLR requests. If necessary, this section of the PBV administrative plan will be amended to conform to any new HUD SLR requirements.

31.2.7.1 SLR submission process

1. The applicant must submit to DHCD all the information required by the HUD mandated SLR checklist found in Attachment C.
2. DHCD must review the SLR package prepared by the applicant for completeness and consistency with program requirements.
3. If it appears complete and acceptable, DHCD must forward the SLR package to HUD’s Boston office. This office will also review the material, and, if found acceptable, submit it to HUD Headquarters for final review and approval.

Because of the multiple reviews involved in completing a SLR review (DHCD, HUD Boston and HUD Headquarters), DHCD will immediately advise applicants that a final award of PBVs cannot be made until this review is completed and approved by HUD.

31.2.8 Exceeding the 25% cap on number of PBV units in a building (983.56)

In general, no more than 25% of the units in a building may receive PBV assistance. Two categories of housing are automatically exempt from this requirement:

1. Units in a **single-family** building, defined as any building with 1-4 units;
2. Units that will house **elderly and/or disabled** households for the term of the HAP contract.

An additional category of units referred to as “**excepted**” units are also exempt from the 25% cap. They are defined as follows:

3. Units that will house a qualifying family, defined by HUD as a household where at least one member will receive at least one **supportive service** for the term of the HAP contract.

31.2.8.1 Elderly and disabled households

DHCD may support PBV units targeted to elderly and/or disabled households. At DHCD’s discretion, it may require that services targeted to the needs of the elderly and/or disabled are provided on a regular basis by qualified providers, and/or that the elderly units be part of an assisted living project, as defined by Section 983.3(b) of the final rule.

31.2.8.2 Families receiving supportive services (983.56)

DHCD may support PBV units targeted to families receiving supportive services, including those projects where the number of PBV units requested will exceed the 25% building cap. The types of services that DHCD will deem eligible to qualify a project to meet HUD’s definition of “excepted” units include, but are not limited to:

- 1) **Household Training** (e.g.: homemaking, parenting skills, money management);
- 2) **Job Training** (preparation and counseling, job development and placement, follow-up assistance after job placement);
- 3) **Services and Resources** (appropriate to assist families to achieve economic independence and self-sufficiency);
- 4) **Counseling for parents and other kinship relations caring for children with needs** (programs for families adopting children from MA Department of Social Services (DSS), foster care programs, Grandfamily programs);
- 5) **Remedial Education** (education for the completion of secondary or post-secondary education);
- 6) **Substance Abuse Treatment** (counseling and treatment for substance abuse).

It is not necessary that the services be provided on site or by the project sponsor if the RAA has approved the services.

31.2.8.2.1 Extent to which services must be provided

A family must have at least one member receiving at least one “qualifying” supportive service. Every participating family occupying an “excepted” unit in a PBV supportive services project must sign a DHCD-developed “PBV Contract of Family Participation.” This contract will establish a minimum period of time of no less than one year in which the family is expected to participate in one or more services and achieve certain goals during the term of the contract.

A household occupying an “excepted” unit cannot be required to participate in medical or disability-related services other than drug and alcohol treatment in the case of abusers as a condition of occupancy, although such services may be offered. (983.56(b)(2)(B))

The family may continue in occupancy in the “excepted” unit after they have successfully completed their supportive services contractual obligations. In this instance, the units will continue to count as “excepted” units for as long as the family eligibly resides in the unit.

31.2.8.2.2 DHCD monitoring family receipt of services (983.56.(b)(2)(ii)(C))

As required by the final rule, DHCD will monitor the tenants’ continued receipt of supportive services on an annual basis.

As part of the PBV application process, each owner/project sponsor must articulate key program goals and core performance indicators in their PBV application. The owner/project sponsor will be required to describe how participant households will be monitored for compliance with their PBV Contract of Family Participation. During each 12-month cycle of the family’s contract, the owner/project sponsor will be expected to maintain on-going evidence of the family’s participation in their service program and maintain agreed upon data for inclusion in an annual performance report (PBV-APR) to be submitted to DHCD.

31.2.8.2.3 Termination of family for failure to fulfill service obligation

Failure by the family residing in an “excepted” unit to fulfill its service obligation, without good cause, will result in termination of the tenant from the PBV program and termination of the unit from the PBV program unless it is re-occupied by another “qualifying family.”

At the RAA’s request, the owner/project sponsor will be required to attend any tenant termination hearing and provide documentation supporting the owner’s determination that the tenant failed to comply with their PBV Contract of Family Participation.

31.2.9 Site selection standards (983.57)

Every PBV owner applicant must demonstrate that their project is consistent with HUD’s statutory goal of “deconcentrating poverty and expanding housing and economic

opportunities.” DHCD will assess each application in this regard based on the following HUD-mandated criteria:

- 1. HUD Designated Zone** Whether the census tract in which the proposal will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.
- 2. Public Housing Demolition** Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition.
- 3. Significant Revitalization** Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization.
- 4. Public Investment** Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement.
- 5. New Market Rate Units** Whether new market-rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market-rate units will positively impact the poverty rate in the area.
- 6. Decline in Poverty Rate** If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, the PHA should consider whether in the past five years there has been an overall decline in the poverty rate.
- 7. Education and Economic Opportunities** Whether there are meaningful opportunities for educational and economic advancements in the census tract where the proposed PBV development will be located.

Every DHCD PBV applicant must demonstrate to DHCD that their project satisfies the twin goals of deconcentrating poverty and expanding housing and economic opportunity regardless of the project’s poverty rate as defined by the most recent census data. DHCD will make its assessment of an applicant’s project’s compliance with achieving these goals based on the totality of the applicant’s response, taking into consideration the target population to be served (i.e. family, elderly, disabled, populations needing supportive services).

HUD’s aforementioned criteria require the applicant to discuss each factor as it relates to the project’s actual census tract. DHCD will only consider information about activity in neighboring census tracts if the information about the actual census tract demonstrates that HUD’s goals of deconcentrating poverty and expanding housing and economic activity are being achieved in the actual tract.

DHCD will also further assess each proposal to determine if it achieves the following DHCD Consolidated Plan and Section 8 PHA Plan objectives:

- Development and maintenance of an adequate supply of safe, decent housing that is affordable and accessible to residents with a range of income levels and household needs;
- Assurance that MA residents with long-term support needs have access to appropriate services and accessible community housing options;
- Assurance of full and fair access to housing for all residents.

31.2.10 Environmental review (ER) (983.58)

Every PBV project is subject to HUD environmental review requirements. Prior to execution of an AHAP (for “development” PBV projects) and a HAP (for “existing” PBV projects), the owner must present evidence that the environmental review has been performed by a HUD-designated “responsible entity” and approved by HUD, or, where applicable, categorically excluded from review under the National Environmental Policy Act (NEPA).

When an owner cannot identify a “responsible entity” to perform the environmental review requirements, DHCD, in its capacity as a state housing and community development agency, and a HUD-authorized “responsible entity”, will take the steps necessary to complete the ER. DHCD will publish the results of the review for public comment and at the appropriate time will send to HUD the Request for Release of Funds.

31.3 Dwelling Units

31.3.1 Additional DHCD quality and design requirements (983.101.(e))

All DHCD PBV units must meet an inspection grade of B+ or higher in order to be eligible for initial PBV assistance. DHCD grading standards can be found in Chapter 16-17 of the HCVP Administrative Plan. These standards are also reproduced as part of DHCD's "existing" PBV application, which can be found on DHCD's website at: [Bureau of Federal Rental Assistance Home Page](http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM)
<http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM>

All PBV units must maintain a B grade or higher status throughout the term of the HAP contract.

31.3.2 Annual inspections (983.103(d))

The final rule permits PHAs to annually re-inspect at least 20% of all PBV units per HAP. DHCD may exercise this option. However, in order to assure that our housing quality inspection minimum standard of a B grade is maintained in each PBV unit, DHCD expects to annually re-inspect most, if not all, PBV units.

31.3.3 Remedies for HQS violations (983.207(b)(2))

If PBV units are not maintained in accordance with DHCD PBV HQS standards (or other HAP requirements), the RAA may exercise any of its remedies under the HAP contract, including termination of assistance, abatement or reduction of HAP payment, reduction of contract units and/or termination of the HAP contract.

31.4 Requirements for Rehabilitated and Newly Constructed Units

Prior to ANY demolition and/or construction, all “development” PBV units require the owner/project sponsor to enter into an Agreement to Enter Into a Housing Assistance Payment (AHAP) contract with the appropriate DHCD RAA.

31.4.1 Requirements that must be satisfied prior to AHAP execution

It is imperative that each PBV developer understands that an AHAP cannot be executed, and NO construction, demolition or work on the land can begin until the following actions are completed and approved by HUD (where applicable) and DHCD:

1. A subsidy layering review (SLR) for any project that has any other housing assistance from federal, state or local agencies, including tax concessions and tax credits. HUD, or an agency designated by HUD, must perform and approve the SLR.
2. An environmental review (ER) performed by the “responsible entity” (RE) designated by the city/town or state, or a certification by the RE that a review is not required.
3. If a PHA-owned property, HUD must approve the selection of the proposal and designate another agency to perform inspections and determine rent reasonableness.
4. If a high-rise elevated building that will house families with children, HUD must approve the site based on criteria that indicate “there is no practical alternative” for family housing in the community.
5. In-place tenants must be determined Section 8 eligible and appropriately housed in accordance with DHCD’s subsidy standards for the HCVP. The unit cannot be assisted with PBV assistance if the tenant is not eligible and would have to be displaced, unless the tenant agrees to move and the owner is prepared to relocate the tenant household at the owner’s expense, in a comparable unit located in the same or nearby building.
6. The owner must provide various certifications and provide the required attachments prior to AHAP execution.

Several of these requirements may conflict with other publicly funded housing programs. However, HUD has made clear that PBV requirements supersede other program requirements, even if these other programs are HUD-funded.

Failure to complete these steps in accordance with HUD’s criteria and timeline **and** to obtain the required approvals means that the proposal cannot receive PBV assistance.

Required mandatory meeting with owner/project sponsor for “development” PBV projects

In the written notification of “conditional reservation” of PBV assistance to applicants for “development” PBV (see Section 31.2.2.9), DHCD informs the owner/project sponsor that they must attend a mandatory meeting with DHCD BFRA staff to discuss all key AHAP and HAP requirements. It is the owner/sponsor’s responsibility to contact the BFRA upon receipt of this letter to set a date and time for it. Each project has its own set of particular issues to be understood and worked out in advance of AHAP and HAP. These mandatory meetings are essential to assuring that the development process runs as smoothly as possible and that all stakeholders understand these key requirements from the day of notification of PBV selection.

The owner/sponsor is encouraged to bring the management agent for the property to this meeting. The BFRA invites DHD staff and the appropriate RAA staff. Owner/sponsors who have previously developed DHCD PBV units are still required to attend this meeting for all new projects. Because there are almost always different stakeholders involved in each respective development project, this meeting allows key staff from each agency to meet one another before any work commences and to focus on issues specific to the project.

31.4.2 Prompt execution of AHAP (983.153(c))

The final rule states that the AHAP must be executed promptly after PHA notice of proposal selection to the selected owner. DHCD will comply with this requirement immediately upon receipt of HUD’s ER clearance letter and HUD approval of the SLR and any other criteria that require HUD approval.

31.4.3 Additional AHAP requirements for RAA and owners

HUD AHAP Boilerplate

Until HUD updates the AHAP, Part 1, Form HUD 52531-A, dated 4/90 and Part 11, Form HUD-52531-B, dated 12/88 remain in effect as of the effective date of this Plan.

RAA AHAP Contract Number

The RAA is required to assign a contract number to the AHAP which will be the same number used for the HAP contract.

AHAP Effective Date

The effective date of the AHAP may either be the date of execution or a subsequent date. Under no circumstances may the effective date precede the AHAP execution date.

Other significant dates:

- Date for commencement of work must be on or after the AHAP effective date and be a realistic date based on likely possible delays.

- Time for completion of work should be based on estimated completion date, with some cushion provided for unforeseeable delays. The RAA, with DHCD approval, may extend the completion date if all work is not completed by the date indicated for reasonable cause acceptable to the RAA.

Contents of the AHAP:

- Exhibit A - In place of the owner's application (which will be maintained by either DHCD's Housing Development Division (DHD), MassHousing, or a future partner agency), the RAA must include a copy of DHCD's PBV reservation letter and the Internal PBV Processing Memo from either DHCD's DHD or MassHousing to the BFRA, with a Memo to File stating that the complete application is available for viewing at the office of either DHCD or MassHousing, whichever was the selecting agency, during normal business hours.
 - In the case of a non-DHCD or MassHousing AHTF "development" selection, made by a "selection agency" as described in Section 31.2.3 of this Administrative Plan, items 1-5 described in that section must be included in Exhibit A.
- Exhibit B - The RAA must include the owner's narrative description of the work to be completed that contains: 1) a certification that currently the project does not substantially comply with HQS and additional DHCD inspection standards and requires the described work in order to be compliant; 2) A certification that the owners and other principals are not on the US General Services Administration list of parties excluded from federal procurement and non-procurement programs; 3) A Memo to File stating that the work write-up for rehabilitation, or if new construction, the specifications and plans, may be viewed at the office of either DHCD, MassHousing, or the "selection agency" as described in Section 31.2.3 of this Administrative Plan, whichever was the selecting agency.
- Exhibit C - This is prepared by the RAA and includes:
 1. AHAP contract number;
 2. Project address;
 3. Number of units by bedroom distribution;
 4. Size of the units, square footage, and the number of bathrooms in each unit;
 5. Utilities and services to be provided by the owner at no additional cost outside of the contract rent.
 6. Estimated gross rents that cannot exceed 110% of the published FMR or the HUD-approved Exception Rent (ER), minus any allowance for tenant-paid utilities. (See Section 31.7.2 for a discussion about rent limits for units in LIHTC and HOME buildings.)

- Exhibit D - A copy of the Housing Assistance Payments (HAP) contract, Form HUD-52530-A, that will be executed when the units are complete and accepted by the RAA; completed with owner and RAA name, contract number, (the same one used for the AHAP) and Exhibit B of the HAP contract which lists the services, maintenance and utilities to be provided by the owner at no additional cost outside of the contract rent.
- Exhibit E - If the work is to be completed in stages and brought under HAP in stages, this exhibit should indicate, by unit number, when each stage will be completed and ready for HAP.
- Exhibit F - The architect's certification as explained in the AHAP.
- Exhibit G - If PBV will be attached to nine or more units in the project, the Davis-Bacon (D-B) Wage Rate Schedule, available online at <http://www.access.gpo.gov/davisbacon> will be exhibit G.

*Each page of **all** exhibits must include: 1) the project name; 2) address; 3) contract number, and 4) exhibit letter.*

All construction must be completed within the time specified in the AHAP (including any extensions approved by the RAA). When all work has been completed and the units pass DHCD's HQS inspection and are accepted by the RAA, the owner and the RAA will execute the HAP contract.

With the exception of Davis-Bacon monitoring discussed below, monitoring of Section 3 compliance in part II of the AHAP involves informing the owner of the contractual obligations contained in Part 2 of the AHAP and, where applicable, keeping a copy of owner certifications of compliance in the project file.

31.4.3.1 Davis-Bacon (D-B)

Projects that will have nine or more units assisted with PBV are subject to D-B prevailing wage provisions for PBV. Even if there is HOME money in a project and it would ordinarily not be subject to D-B until 12 or more units are receiving assistance, the PBV award requires D-B compliance at nine units. The General Contractor (GC) is responsible for compliance with D-B for all employees on the site.

If D-B provisions apply to the project, the owner is responsible for ensuring that the appropriate language is contained in the construction contract(s). If another entity has not been identified to monitor D-B compliance by DHCD, DHD, MassHousing, a future partner agency or a "selection agency" per Section 31.2.3 of this plan, it is the responsibility of the administering RAA to monitor this compliance. The RAA may request DHCD assistance in meeting this obligation. Attachment D provides a complete overview of the RAA's Davis-Bacon responsibilities.

31.5 Housing Assistance Payments Contract

31.5.1 Identifying “Excepted” units (983.203(h))

If PBV will be attached to more than 25% of the units in a multifamily building, the “excepted units” that will be set aside for the qualifying families must be identified.

For example: In a building with a total of 8 units, it is permissible to provide PBV assistance to all 8 units (100%). In this instance, at least 6 of the units must be identified as “excepted units” and be occupied exclusively by elderly or disabled households or households that will receive services in accordance with Section 31.2.8 of this PBV administrative plan. The remaining two units fall within the 25% limit and do not need to be (but may be) occupied by one of these qualifying families.

31.5.2 Term of HAP contract and effective date of first payment (983.205(a))

The HAP contract may be executed for a term of up to ten years based on the owner’s request and DHCD approval. Under no circumstances may an assisted lease be made effective, or subsidy payments begin, prior to the effective date of the HAP contract.

31.5.3 HAP contract extensions (983.205(b))

Within one year of expiration of the initial HAP contract, DHCD may agree to extend the contract for an additional term not to exceed five years. Any extension of the term must be on the form and subject to the conditions prescribed by HUD at the time of the extension. Subsequent extensions, up to a maximum of five years per extension, are subject to the same limitation.

In all instances, a rent reasonableness test will need to be performed at the time of contract extension.

Factors to consider if contract extension is requested

DHCD will consider several factors in its decision whether to extend an expiring HAP contract, including but not limited to:

- Owner compliance with HQS and consistent maintenance of the B or higher inspection grade.
- Rate of tenant turnover. A high rate (more than 25% annually), may indicate tenant dissatisfaction with the unit or owner.
- Timeliness of owner reporting of vacancies in order to minimize the time the unit remains vacant.
- Length of unit vacancies.
- Ease of re-leasing units at turnover.
- Owner’s overall compliance with the HAP contract provisions.

DHCD will permit a HAP contract extension for a unit that may be vacant at the time the contract expires provided the vacancy is recent and the project has not experienced a high rate of turnover during the contract term.

31.5.4 Wrong unit size for in-place family at time of contract extension request (983.253(b) and 983.259)

If an in-place family's bedroom needs have changed at the time of contract extension and the family is under-housed or over-housed and is no longer eligible for that particular unit size, the HAP contract may not be extended for that unit unless the family vacates the unit. In this case, the family must either be offered another PBV unit of an appropriate size, if available and nearby, or be issued a voucher at least 120 days prior to the HAP expiration date. If the family fails to use the voucher during its initial and any extended term, the voucher will expire, and the family will be responsible for the full gross rent of the unit.

In instances where the family size changes within 120 days of the HAP contract expiration, the same requirements previously stated apply. In these cases the HAP contract can be extended for the duration of the voucher (and any extensions), or for the time it takes for the tenant to re-locate to another PBV unit.

31.5.5 Termination of the HAP contract by owner because of rent reduction (983.205(d))

If the RAA performs a rent reasonableness test that results in a reduced amount below the contract rent, the owner may elect to terminate the HAP contract and the tenant must be offered the next available tenant-based voucher.

31.5.6 HAP contract amendment to add or substitute contract units (983.206(a) and (b))

31.5.6.1 Substituting contract units (983.206(a))

DHCD will permit the owner to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit provided the owner has otherwise acceptably performed all requirements under the HAP contract and the substitution does not violate the 25% cap.

31.5.6.2 Amendment to add contract units (983.206(b))

DHCD may permit additional PBV units to be added to the PBV HAP contract provided it has adequate voucher and budget authority at the time the request is received, and:

1. The total number of units in the building that will receive PBV assistance, or other project-based assistance, will not exceed 25% of the number of dwelling units (assisted or unassisted) in the building.
2. The HAP can be amended during the three-year period immediately following the execution date of the HAP contract.
3. The owner has otherwise acceptably performed all requirements under the HAP contract.
4. Addition of unit is consistent with any DHCD publicly stated target population requirements (i.e. elderly, disabled, homeless, family, etc.) for PBV units at the time the request is made.

31.5.7 HQS and rent reasonableness requirements prior to contract extension

Prior to the extension term, the following actions must occur:

1. All units must be inspected for HQS compliance at a minimum inspection grade of B.
2. A rent reasonableness test for each unit must be performed by the RAA.
3. The units must be determined eligibly occupied and size appropriate for the in-place family.
4. In the case of PHA-owned units, an independent entity approved by HUD must perform this work.

31.5.8 Termination of assistance

31.5.8.1 Reduction of unit(s) from HAP contract for tenant-caused program violations

If a tenant family is terminated by the RAA for program violations during the term of the HAP contract, both the owner and participant family will be notified by letter that assistance will be terminated effective one calendar month from the date of the notice. DHCD tenant-based HCVP program termination appeal procedures apply to tenants of PBV units. In the event the termination is upheld but the tenant remains in place, the subsidy may be moved to another available unit of the same size and quality in the same project (with no increase in the total number of units to be assisted) if requested by the owner. If no eligible unit is available or if the owner does not request a unit replacement, the HAP must be reduced by that one unit. At such time as the unit becomes vacant, the owner can request that the unit be restored to the HAP contract and if adequate voucher and budget authority is available, DHCD may reinstate the unit.

31.5.8.2 HAP contract options when tenants become ineligible through no fault of tenant household

Families that become ineligible through no fault of the family, such as when an increase in household income results in 30% of its adjusted monthly income being equal to or greater than the gross rent for the unit, may remain in the unit paying the full rental amount. A family may remain in place (as a tenant in good standing) and pay the full rental amount without assistance indefinitely. The PBV contract, however, must be reduced by one unit.

If the project is partially assisted the owner may request to substitute another same-size comparable unit for the ineligibly occupied one. If no such request is made by the owner, the HAP contract will be reduced by one unit.

Both the owner/project sponsor and the tenant will be notified by letter that the contract for the unit will be terminated effective one month from the date of notification.

If a family remains in place paying the full rent and subsequently becomes income eligible, the unit may be restored to the HAP contract if:

1. Adequate voucher and budget authority is available; and
2. The family has been redetermined program eligible; and
3. The owner did not substitute a different unit when the HAP contract for the ineligibly occupied unit was terminated.

Unlike the HCVP, the PBV program does not provide for a six-month zero subsidy window for participants in PBV units. The only way an over-income tenant who subsequently experiences a reduction in income could be reinstated to the PBV program is if the tenant stays in the terminated unit paying full rent, as described above, and the owner did not substitute another unit.

31.6 Occupancy

31.6.1 Determining in-place tenant eligibility (983.251)

When PBV applications are selected (both “existing” and “development”) and include units that are currently occupied at the time of selection, both the owner and the RAA must take the following steps:

31.6.1.1 Owner/Project sponsor responsibility

The owner sponsor must send all in-place tenants a letter explaining that the owner’s units have been selected for PBV assistance and that if the tenants are determined program eligible (including being appropriately housed according to DHCD’s occupancy standards), they will be eligible to receive PBV assistance. The owner’s letter must emphasize that any tenant found ineligible will not be displaced. The RAA will provide the owner with the details about program eligibility and relocation requirements. At the owner’s request, the RAA will assist the owner in composing this letter.

31.6.1.2 RAA responsibility

Once the owner’s in-place tenant letter has been sent, the RAA will send to these tenants a modified HCVP pre-application that seeks information about each tenant’s household composition. This information will assist the RAA in determining whether or not the household is occupying the appropriate number of bedrooms. Once the information is received, the RAA will advise DHCD and the owner about its unit size determinations.

Because of time delays in getting the various HUD approvals (when required) completed, the RAA will not perform the final tenant eligibility determination for any in-place tenant until the unit(s) has been otherwise approved for PBV assistance (e.g. passed HQS, met all other HUD requirements). Final eligibility includes the determination that the in-place household is appropriately housed with the correct number of bedrooms.

31.6.2 In-place non-eligible households (983.251(b)(2))

31.6.2.1 Over-housed and under-housed in-place households

Where there exists an in-place non-eligible, over- or under-housed household, that occupied unit cannot be brought onto the program unless the owner, at his expense, finds a suitable replacement unit acceptable to that household.

31.6.2.2 Change in household composition between preliminary determination of eligibility and HAP contract

If the household's composition changes after having been preliminarily determined program eligible (see Section 31.6.1), and the unit is ready to come under HAP, DHCD will authorize the RAA to issue the family a tenant-based voucher if adequate voucher and budget authority is available.

Once the tenant has vacated the unit, it may be placed under HAP. If this authority is not available, the unit cannot be brought onto the program at that time.

31.6.2.3 Unit substitution

If the unit is located in a partially assisted building and not more than 25% of the units receive PBV assistance, the owner may substitute another unit of the same size for the ineligibly occupied unit.

31.6.3 Selection from PHA waiting list (983.251(c))

DHCD will maintain a site-specific waiting list for each respective PBV project.

31.6.3.1 Notification of all HCVP applicants

All applicants on the DHCD tenant-based waiting list were notified in October 2005 of their opportunity to be listed on individual PBV lists and provided with a number to call if they choose to apply for this program at a later date. At that time, DHCD amended its tenant-based HCVP pre-application to notify any prospective HCVP applicants of their right to be listed on one or more of these PBV lists.

31.6.3.2 Referrals to PBV site-specific waiting lists

It is the responsibility of PBV owners and project sponsors to refer applicants to the site-specific waiting list for their respective project. DHCD funds PBV projects based upon the owner's/project sponsor's representation (supported with documentation) of the need for PBV housing in the project's community.

The RAA and their respective Housing Consumer Education Center (HCEC) will also make referrals to the site-specific lists. If units are not promptly filled because of lack of referrals, the RAA must arrange to meet with the owner/project sponsor to emphasize their responsibility to make a suitable number of referrals or risk contract termination.

31.6.3.3 Site-specific waiting list information available on DHCD's website

DHCD's PBV site-specific waiting lists are available on DHCD's website at:
<http://www.mass.gov/dhcd/components/DOH/BoFRA>

Each site-specific waiting list identifies:

1. Name of the project;
2. Location of project;
3. Number of bedrooms in the project;
4. Accessible unit availability;

5. Any special preference and/or occupancy considerations such as elderly, disabled, supportive services.

31.6.4 Listing in-place eligible households on both the site-specific and master HCVP waiting list (983.251(b)(2))

All in-place households must be simultaneously listed on the appropriate RAA's regional HCVP waiting list *and* the site specific waiting list for the building in which they reside. These households must receive an absolute selection preference for the project-based voucher on the site specific list. If the unit is not appropriately sized for the in-place household but another unit in the building is, the owner must offer this unit to the household before accepting any referrals from the RAA waiting list. It is the tenant's option to accept the owner's offer of the appropriately sized unit.

31.6.5 Timing of referrals for "Development" and "Existing" PBV projects

Tenants for vacant PBV units will be selected by the owner from RAA referrals from the site-specific waiting list.

31.6.5.1 For "Development" PBV projects

Approximately 60 days before the anticipated HAP date, DHCD will add the name of the new project to its list of previously established site specific waiting lists on its website. At that time, all in-place tenants must be listed on this list. The owner/project sponsor, the RAA and the HCEC can also begin referring other prospective applicants to the list. The owner/project sponsor can begin requesting applicant referrals to fill vacant units as soon as the list is established.

31.6.5.2 For "Existing" projects

Simultaneous with approving the HAP for an "existing" PBV project, DHCD will add the name of the new project to its list of site-specific waiting lists on its website and the owner/project sponsor can begin making applicant referrals to the list. At that time, the RAA will send referrals to the owners for all vacant units.

In all instances, the RAA will refer more applicants than there are units available in order to assure the units are filled as quickly as possible and to provide the owner with a reasonable pool of potentially acceptable applicants based on the owner's DHCD-approved tenant selection criteria. These referrals will not have been determined Section 8 eligible by the RAA. This process will occur after the owner/project sponsor has selected the tenant(s).

Referred applicants who lose contact with the RAA or owner/project sponsor or fail to respond to requests for additional information for a period greater than two weeks will be deemed to have refused a potential offer of a unit. The RAA cannot require the owner to hold a unit vacant while it attempts to locate the applicant.

31.6.6 Owner's written tenant selection plan

Prior to AHAP or HAP execution each owner must submit a tenant selection plan for approval by DHCD and the RAA. Failure to present an acceptable selection plan will result in DHCD's withdrawal of the offer to provide PBV assistance to the project.

Each tenant selection plan should address, at a minimum, the following criteria:

1. The screening criteria and methods used to screen.
2. The owner/project sponsor's certification that both assisted and unassisted tenants will be screened using the same screening criteria and methods.
3. If a credit check will be part of the screening, the minimum acceptable score.
4. A statement that the owner/project sponsor will return to the RAA a copy of the applicant referral list that shows the date and time that each referred applicant contacted the owner/project sponsor and the final status of the contact.
5. A statement that all applicants that pass the owner/project sponsor's screening will be referred back to the RAA as potentially acceptable tenants for a future vacancy.
6. A statement that owner/project sponsor's denials will be in writing to the applicant listing the reason(s) for the denial with a copy to the RAA.

For items 2-3 above, the owner/project sponsor may propose to provide the prospective assisted tenant with more latitude than unassisted tenants in recognition that the subsidy will improve the household's finances. Additionally, the owner can propose use of differing screening criteria where required by other federal program funds in use in the project. DHCD will determine if these criteria are approvable.

31.6.7 Timing of owner's tenant selection and RAA verification of tenant's Section 8 eligibility

When the owner selects from the list of referrals provided by the RAA in accordance with its approved written tenant selection plan, the owner does not have to screen the referrals in the order of placement on the RAA waiting list. Rather, the owner should screen prospective applicants based on the order in which the applicant contacts the owner, comes to see the unit and completes the owner's selection requirements.

The RAA will not verify an applicant's Section 8 eligibility until **after** the owner has selected the tenant(s). Owner screening typically takes much less time than RAA eligibility screening. Because Section 8 verification of eligibility can require considerable staff time to complete and the RAA will make more referrals than there are units available, DHCD has determined that it is not an appropriate use of staff time to complete the Section 8 eligibility screening until the applicant has been offered a unit by the owner.

31.6.8 RAA notification to applicants about the PBV unit selection process

The RAA must clearly outline the admissions process in the selection/referral letter that is sent to the applicant. This information should include information about any special features in the project and any selection preferences, where applicable.

Examples of special considerations could include:

1. If the project is one in which both initial and continued PBV eligibility will be contingent upon the family's willingness to participate in a program of supportive services;
2. If a preference will be provided to disabled applicants who can demonstrate a need for specific services; or
3. If the units are limited to those applicants who are eligible for assisted living.

The owner should be encouraged to offer additional information about the project, including pictures, which the RAA can include in its mailing to the applicants.

Because referrals are generally made to the owner without the RAA first determining Section 8 eligibility, both the owner and the applicants must be notified in writing by the RAA that among those applicants that meet the owner's selection criteria, the first applicant that contacts the owner and is approved by the owner, who is subsequently determined eligible by the RAA, will be offered the unit.

31.6.9 Applicant right to appeal an owner denial

If an owner denies a unit to a referred applicant, the owner must send a written notice to the applicant clearly stating the reason(s) for denial. The owner must provide a copy of this denial letter to the RAA and must advise the applicant of any appeal rights to the owner. The applicant may request that the RAA review the owner's denial to verify that compliance with the owner's approved written tenant selection plan.

31.6.10 RAA briefing of applicants selected to occupy a PBV unit

All applicants selected to occupy the PBV units must be briefed on program benefits and responsibilities. The oral briefing must include a description of how the PBV program works and family and owner responsibilities. Each briefed family must receive a packet that contains: 1) Information on how the RAA determines the total tenant payment for the family; 2) family obligations under the program; 3) applicable fair housing information; and, 4) information about continued program eligibility if household composition changes and unit size is no longer suitable.

If the family head or spouse is a person with a disability, the RAA must take appropriate steps to insure effective communication in accordance with 24 CFR 8.6 in conducting the oral briefing and in providing the written information packet, including appropriate, alternative formats.

31.6.11 Filling accessible units

The owner/project sponsor must make every effort to refer eligible households that would benefit from the unit's accessibility features to the RAA's site-specific waiting list before DHCD will permit the RAA to lease such a unit to a non-handicapped applicant. Owners

must list accessible units with the Mass Accessible Housing Registry. Both the owner and the RAA should also notify all local and regional disability organizations of accessible PBV unit availability. The regional HCEC should be able to assist with these referrals.

31.6.12 Removal of applicant from site-specific list

Rejection by an applicant of the largest bedroom size in the project for which they are eligible will result in removal of the applicant's name from that project's waiting list. For instance, an applicant that refuses a one-bedroom unit in a project will not be referred to a smaller unit (OBR, ESRO, SRO) in that same project. The RAA must notify the applicant of this removal in the initial selection letter, or a subsequent letter, before the removal occurs.

31.6.13 Student status

An SRO PBV unit may be occupied by a student who is also receiving assistance under Title IV of the Social Security Act, enrolled in a job training program receiving assistance under the Job Training Partnership Act, or under other similar federal, state, or local laws.

An SRO PBV unit may not be occupied by a full-time student except as described above.

A full-time student is defined by the IRS as taking 12 credit hours a semester or attending school full-time 5 months per year at an educational institution with regular facilities other than a correspondence or night school.

Student status is required to be monitored on a tax year basis; thus, an applicant would not be eligible if the person had been a full-time student for five months of the calendar year even if they had graduated prior to being referred to a PBV unit. RAAs should adjust tenant certification procedures to consider student status according to this interpretation.

In addition, apart from the previous selection criteria discussed, higher education students who are part of participant households are also subject to income scrutiny per 24 CFR 982.552.

31.6.14 Applicant responsibility for updating information

Applicants will be placed on each PBV waiting list by the date and time the application is received. Applicants for any site-specific PBV project that are not on the HCVP waiting list will be automatically listed on the HCVP waiting list. If the applicant's household composition is not appropriate for the project, the RAA will not place the applicant on that project's waiting list. It is the applicant's responsibility to follow up with the RAA to verify that they were placed on each respective list for which they applied.

It is the applicant's responsibility to make any requests for changes on the waiting lists they have applied to, if such changes would be necessitated by a change in the applicant's family size and/or composition or mailing address. Failure by the applicant to maintain up-to-date

information with the RAA may adversely affect their position on some or all site-specific lists.

31.6.15 RAA denial of eligibility for PBV applicant

The RAA is responsible for defending its decisions pertaining to the applicant's eligibility for PBV assistance. HCVP appeal procedures will be utilized and shall be the same as currently in effect for the HCVP as set forth in Section 9 of the HCVP Administrative Plan.

31.6.16 Preferences

31.6.16.1 Regional residency preference

A regional residency preference will be applied as a ranking preference to all PBV applicants. Applicants may apply to units outside of their region, but they will not be selected until all applicants with a residency preference have been exhausted.

31.6.16.2 Limited local residency preference

To further the creation of permanently affordable rental housing, DHCD may agree to establish a limited local residency preference for up to 50% of the PBV units developed pursuant to certain PBV development projects *only* in those communities where the local housing authority does not have its own Section 8 vouchers available for such PBV projects (or the community does not have a LHA) *and* the project would not otherwise be approved by the city or town without a local residency preference. The owner will be required to submit evidence from the city or town that these conditions have been met prior to DHCD consideration of a local residency preference.

31.6.16.3 Elimination of singles preference for SRO units

Due to the difficulties inherent in maintaining occupancy in SRO units, DHCD will permit the admission of single-person households that are not elderly or disabled for these units provided all other eligibility criteria are met; however, the elimination of the single's preference does not apply to full-time students.

31.6.16.4 Preference for certain disability projects

DHCD may agree to provide a preference for projects serving persons with disabilities who live in institutions or are at risk of institutionalization.

31.6.16.5 Preference for disabled households needing services (983.251(d))

DHCD may support projects that require preference be given to disabled households that need services offered at a particular project in accordance with the following HUD conditions and criteria:

1. Preference cannot be granted to persons with a specific disability.
2. The project sponsor must document that the applicant has a disability that significantly interferes with their ability to obtain and maintain themselves in housing; and,
3. Who, without appropriate services, will not be able to obtain or maintain themselves in housing; and,

4. For whom such services cannot be provided in a non-segregated setting (i.e. a tenant-based voucher for an independently selected unit would not meet the needs of the applicant).
5. Disabled residents shall not be required to accept the particular services offered at the project.
6. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided.

31.6.16.5.1 Who determines tenant eligibility?

The owner/project sponsor must identify in their application which professional organization and/or independent individual(s) will make the assessment that a disabled applicant meets the HUD criteria listed in Section 31.6.16.5 (2-4). Such professionals could include licensed medical, psychological or allied mental health and/or human services professionals.

Whomever the owner/project sponsor selects to make the assessment must sign a certification form that either attests to or rejects each applicant's need for services in accordance with Section 31.6.16.5 (2-4). DHCD will provide the form to be used in each instance.

Applicant eligibility will be made by the owner/project sponsor. The RAA will periodically monitor the project sponsor's applicant selection determinations for compliance with their DHCD-approved selection plan.

31.6.16.5.2 Applicant referrals:

All disabled applicant referrals to these units will be made from the project's site specific waiting list (983.251(c)(3)) maintained by the appropriate DHCD RAA. All applicants referred to the project must receive information prepared by the owner/project sponsor that describes the project's services and explains the preference criteria for tenant selection. The owner/project sponsor must send all applicant referrals written notification of their selection determination, with a copy to the RAA.

31.6.16.5.3 Applicant right to appeal denial of PBV unit based on failure to demonstrate need for services offered

Any applicant denied preference consideration for a project providing services must be offered the right to appeal the decision made by the owner/project sponsor. The owner/project sponsor must include in their PBV application to DHCD the specific criteria they will use to assess an applicant's need for services and a sample letter that they will use to notify both the applicant and the RAA that they have been determined ineligible. DHCD will terminate the HAP contracts of any project sponsor with a track record of routinely rejecting otherwise qualified applicants in order to serve a client population with a specific disability and/or a required affiliation with a particular provider agency.

31.6.16.6 Preference for families eligible to receive supportive services where 25% or less than a building's units will have PBV

DHCD may allow a preference for families that can demonstrate they need the same types of supportive services allowed for "excepted units" (see Sections 31.2.8 and 31.5.1) in a project. However, these families cannot be required to sign a PBV Contract of Family Participation as a condition of occupancy and cannot be terminated from the PBV program for failure to participate in and/or complete a service program.

31.6.16.7 Other preferences

DHCD may establish other tenant selection preferences for its PBV projects, provided these preferences support DHCD's mission, as stated in its most current HUD-approved PHA Plan and Consolidated Plan. DHCD will amend this PBV administrative plan and announce any new preference(s) on its website at: [Bureau of Federal Rental Assistance Home Page](http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM) <http://www.mass.gov/dhcd/components/DOH/BoFRA/Default.HTM>.

31.6.17 Overcrowded, under-occupied, and accessible units (983.259)

31.6.17.1 Under-housed

Should a change in family size or composition cause a family to become under-housed to the point of causing the unit to be non-compliant with HQS space requirements and there is either an available appropriately sized PBV unit or a tenant-based voucher available for the family, it must relocate with assistance or be terminated from the program. If there is no voucher available to issue to the family or an available comparable PBV unit to which the family may relocate, the family will remain in place without penalty to the owner until the family can relocate with assistance.

31.6.17.2 Adding a family member

If a request from the family to add another member that is not by birth, adoption, or court order would cause the family to breach HQS space requirements, such request must be denied by the owner and the RAA. If such family has been in good standing for at least one year at the time of the request to add a member, then the request may be approved if the RAA has a tenant-based voucher to issue to the family or there is an available PBV unit of appropriate size for the new family composition in the building.

31.6.17.3 Over-housed

If a family becomes over-housed due to a change of family size or composition after the first year of tenancy, the family must relocate at their expense to a smaller PBV unit or accept a voucher to relocate. If there is no appropriately sized comparable PBV unit or voucher available for the family, it may remain in place with no reduction in the contract rent until such time as there is either a voucher or unit available. If the family has failed to move with assistance within two months to a suitably sized PBV unit, or moved within the voucher term limit (and any approved extensions) the family must be terminated from the program. If the project is partially assisted, the owner may request to substitute another comparable unit for the one that is ineligible occupied.

31.6.17.4 Reasonable time to relocate if over/under-housed

If a suitably sized comparable PBV unit is located in the same or nearby building the tenant will have two months to relocate at the tenant's expense.

If no suitably sized comparable PBV unit is available, the tenant will be issued a voucher and have the maximum time permitted on the voucher to relocate, including any extensions granted for reasonable accommodation or mitigating circumstances.

31.6.17.5 Inappropriately housed in an accessible unit

The RAA must utilize a lease addendum that requires an inappropriately housed family to move from an accessible unit when a family that needs the accessibility features is identified for the unit.

In order to minimize loss of income to a project, an accessible unit may be leased to a family that does not require the unit's special features under the following circumstances: 1) it has been vacant for at least 45 days, and, 2) both the RAA and the owner/project sponsor have exhausted their respective outreach sources to identify a family that would benefit from the unit's accessible features. Because such a family is inappropriately housed, they must be required to sign a lease addendum prior to initial occupancy agreeing to move from the unit. If there is a suitable PBV unit available within the project, the inappropriately housed family must be offered the opportunity to move to that unit. If there is no PBV unit available, the RAA will issue an available tenant-based voucher to the family.

31.6.17.5.1 Reasonable time to relocate from an accessible unit if accessible features are not required by tenant

1. If there is a suitable PBV unit within the same or nearby building, the family must relocate within 45 days. The RAA will be authorized to pay for this move from its administrative fee and DHCD will reimburse the RAA for this expenditure.
2. See 31.6.17.4 for relocation requirement when a tenant-based voucher is issued. The RAA will be authorized to pay for this move from its administrative fee and DHCD will reimburse the RAA for this expenditure.

If the family fails to relocate with assistance either to an appropriate PBV unit or within the voucher term limit (and any approved extensions), the family must be terminated from the program.

If there is no unit or voucher available, the family will remain in the accessible unit without penalty until such time as one or the other becomes available to the family.

31.6.18 Requirement for "remaining member(s)" of an "excepted unit" (983.261(d))

As discussed in Section 31.2.8 of this plan, the three household types that can qualify a unit as an "excepted" unit include: 1) elderly, 2) disabled, and 3) households where one or more

members participate in a program of supportive services under the terms of a PBV Contract of Family Participation.

In each instance, any remaining family member(s) of “excepted” units that no longer qualifies for “excepted unit” status must vacate the unit within a reasonable period of time in order that the PBV unit can be used for the intended “qualifying” household type. The RAA will issue a tenant-based voucher to the remaining family member(s) (exclusive of any live-in aide), provided they continue to be program eligible. They must vacate the unit at their expense within DHCD’s established voucher term and any approved extensions. Exceptions may be permitted for reasonable accommodation or mitigating circumstances.

Failure to move with tenant-based voucher assistance will result in program termination. If the household remains in place after the voucher expires, it will be responsible for the full contract rent.

Termination of PBV contract if remaining family member(s) fail to vacate the “excepted” unit by the expiration of the mobile voucher term

If the remaining family fails to vacate the PBV unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit of the same bedroom size in the project, or the owner terminates the lease and evicts the family.

31.6.19 Family right to move (opt out) with tenant-based assistance (983.260)

At the end of one full year of assisted tenancy in a PBV unit, a participant in good standing may request a tenant-based HCVP voucher and move to a unit of their choice with continued assistance. The participant must give the owner advance written notice of intent to vacate with a copy to the RAA in accordance with the lease. If the RAA does not have available voucher and budget authority the tenant may request placement on the RAA’s PBV “opt out” waiting list. The participant may not be placed on this list until they have been in the unit for a full year as a tenant in good standing. When a voucher becomes available, names will be selected from this list in chronological order after any inappropriately housed or wrong-size unit families have been provided with the first the opportunity to move with assistance. Opt-out families must be given the next available HCVP vouchers before any other HCVP waiting list applicants.

31.6.19.1 Term of opt-out voucher

PBV participants that request an opt-out tenant-based voucher to relocate will be issued an available voucher for a 60 day term. If the family has not located a program eligible unit to which it can relocate with assistance at expiration of the voucher term, it must wait until its next annual lease anniversary before again becoming eligible to request a tenant-based voucher, unless the tenant and owner/project sponsor agree to mutually terminate the lease prior to the next anniversary date and the RAA has available voucher and budget authority. Because of the time involved in filling PBV units and the need for an owner to have some control over vacancy loss, the opt-out voucher will not be extended beyond 60 days except for reasonable accommodation or mitigating circumstances acceptable to the RAA.

31.7 Rent to Owner

With the exception of rents for units with other subsidy discussed in Section 31.7.1, at the initial HAP contract the maximum gross rent will be set at the lesser of: 1) 110% of the applicable FMR; 2) the HUD-approved exception rent; 3) the reasonable rent, or, 4) the owner requested rent.

31.7.1 Rents for units with other subsidy (983.304) and (983.301)

31.7.1.1 Rent in Low Income Housing Tax Credit (LIHTC) units (983.304(c))

In these units, the final rule caps rents at the established tax credit rents. It applies to all units “selected” by DHCD for PBV assistance on or after November 14, 2005.

31.7.1.1.1 Pre-11/14/05 LIHTC rent rule

LIHTC units selected before this date are **not** subject to 983.304(c)). Rent increases, as described in PIH 2002-22 continue to apply. This means that rents for these units may exceed the tax credit rent up to 110% for units located **inside** a qualified census tract (QCT) and above 110% for units located **outside** of a QCT if determined reasonable and comparable to other similar unassisted units in the same or nearby building.

31.7.1.1.2 LIHTC rent rule for units selected for PBV assistance on or after 11/14/05

The gross rent for a LIHTC unit selected on or after this date and located **inside a QCT** cannot exceed the LIHTC rent provided the LIHTC rent is otherwise determined to be reasonable and comparable to other unassisted units located in the same or nearby building. The gross rent for a LIHTC unit located **outside of a QCT** may exceed 110% of the published FMR if the LIHTC rent is higher than 110% of FMR and determined reasonable and comparable to rents for other unassisted units in the same or other nearby buildings.

31.7.1.1.3 LIHTC and rent reasonableness consideration

Inside a QCT, LIHTC units are “assisted” units for purposes of rent comparability and may not be used for rent reasonableness. **Outside a QCT**, LIHTC units with rents that exceed the payment standard are not considered assisted

31.7.1.2 Rents in HOME units

High HOME rents are limited by the high HOME rent formula. Low HOME rents can be established up to the maximum PBV rent. In both instances, the rent must still be determined rent reasonable for similar unassisted units in the same or nearby building.

There is no HUD guidance on rents for PBV units with HOME and LIHTC funds. It is likely that the LIHTC rules would limit rents that otherwise could be charged under the HOME regulation. DHCD will seek HUD guidance on this matter should it occur.

31.7.2 Rent reasonableness

The RAA must perform a rent reasonableness test on all contracted units both at initial HAP and under the following circumstances:

1. When the owner requests a rent adjustment;
2. When the owner requests to substitute an assisted unit;
3. If there is a change in the allocation of responsibility for utilities;
4. If there is a 5% or greater reduction in the HUD published FMR; and/or
5. At time of any contract extension.

The contract rent may be adjusted up or down as indicated by the results of the rent reasonableness test. This requirement means that there may be occasions when a PBV rent must be reduced because of verified decreases in rent levels for comparable unassisted units in the PBV community.

31.7.3 Rent increases (983.302(b)(2))

Each year at the HAP contract anniversary date, the owner may be granted a rent adjustment up to the limits discussed in Section 31.7.2 based on the published FMR or any HUD exception rent. Any owner request for a rent increase automatically requires the RAA to perform a rent reasonableness review.

The owner must request the increase in writing at least 60 days prior to the HAP contract anniversary date. If the request is made less than 60 days prior to the HAP anniversary date, it may delay the effective date of the RAA-approved rent adjustment. Adjustments may not be applied retroactively. Requests from owners received after the HAP anniversary date, if approved by the RAA, will be effective on the first of the month following the date the request is received by the RAA. A late rent adjustment request will not adversely affect the dates of future adjustments.

31.7.4 Rent decreases (983.302(c))

Rent decreases go into effect either at the anniversary date of the HAP (if the owner requested a rent redetermination and rent needs to be lowered) or on the first of the month following a re-determination for reasons stated in Section 31.7.2.

31.8 Payment to Owner

31.8.1 Vacancy payments during the term of the PBV HAP contract (983.352(2))

DHCD will permit a maximum vacancy payment up to 60 days excluding a payment for units that are vacant at the time of the initial HAP. The following requirements must be satisfied in order for a vacancy payment to be made:

A. Prompt notification of vacancy to RAA

The owner must promptly notify the RAA of any pending vacancy immediately upon receiving notice from a tenant of intent to vacate the unit. In the event of a vacancy that occurs without notice to the owner, the owner must notify the RAA immediately upon learning of the vacancy not later than the first missed rent payment by the tenant family. The owner may keep the HAP payable for the month when the family moves out (“move out month”) provided the vacancy is not the owner’s fault.

B. Continued compliance with HQS and all other program requirements

The owner has taken all steps necessary to prevent vacancy loss from occurring including keeping the unit compliant with HQS.

C. Requirements for owner’s written request for vacancy payment

Requests for vacancy payments must be in writing to the RAA and must be made during the first month of a new lease-up or in the 30 days subsequent to the 60-day vacancy period, whichever comes first. Payment may only be made when the vacancy period has elapsed. The owner’s written request must include the following information:

1. A statement that the family has vacated and the date the family moved out, to the best of the owner’s knowledge;
2. The owner certification that the vacancy was not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
3. A certification that the owner took all reasonable action to minimize the likelihood and length of the vacancy;
4. Any other additional information that the RAA determines appropriate to verify that the owner is entitled to the payment.

D. Vacancy payment amount

The payment for each month of the maximum two-month period will be determined by the RAA. This amount cannot exceed the monthly rent to the owner under the assisted lease minus any portion of the rental payment received by the owner, including amounts available from the tenant’s security deposit.

E. Prompt request for applicant referrals to fill vacant unit

If referrals are not promptly requested by the owner or applicants screened promptly upon responding to a referral, the owner will not be eligible to receive a vacancy payment.

F. Frequency of vacancies and relationship to HAP extensions

The RAA will consider the frequency and nature of vacancy requests when deciding whether or not to renew an expiring PBV HAP contract.

31.9 ATTACHMENT A- 24 CFR 982 Regulations That DO NOT Apply to PBV

Project-based-voucher regulations at 24 CFR 983.2(b) and (c)state that all tenant based voucher regulations at 24 CFR 982 apply to the PBV program with the certain exceptions.

The following is a list of the parts of the tenant-based rule that do not apply to the PBV program *WITH NOTED EXCEPTIONS (i.e. these particular sections DO apply and are displayed in italics).*

1. GENERAL provisions of 24 CFR 982 that DO NOT apply:

- Voucher issuance
- Portability
- Special housing types like shared housing, cooperative housing, manufactured home space rental and the homeownership option.

2. SPECIFIC provisions of 24 CFR 982 that DO NOT apply:

2.1 SUBPART E: ADMISSION TO TENANT BASED PROGRAM

These two sections do not apply:

982.202(b)(2): prohibition on basing selection where family will live

982.204(d) prohibition on basing selection on family or unit size

2.2 SUBPART G: LEASING A UNIT

Nothing in Subpart G applies except for:

(i) 982.310 Owner termination of tenancy applies; but, to the extent it differs from 24 CFR 983.257, the latter governs (i.e. good cause definition is more restricted on PBV; termination from an “excepted”

unit for failure to complete a supportive services requirement is permitted on PBV)
(ii) 982.312 Absence from unit applies, but to the extent it differs from 24 CFR 983.256(g), the latter governs (i.e. HAP contract is not terminated if family is absent for longer than maximum period permitted on PBV).
(iii) 982.316 Live-in aid applies.

2.3 SUBPART H: WHERE FAMILY CAN LIVE AND MOVE

Nothing in Subpart H applies.

2.4 SUBPART I: DWELLING UNIT: HQS, SUBSIDY STANDARDS, INSPECTION AND MAINTENANCE

These sections do not apply:

982.401(j) Lead based paint performance. (Lead based paint requirements @ 983.101(c)(2) apply instead. These requirements are stricter. Except for SRO, ESRO or units in a building that has been designated exclusively for occupancy by the elderly and/or persons with a disability, all units receiving PBV assistance must be in compliance with the MA lead law during the term of the contract, regardless of the age of the occupants. Compliance is satisfied by submission of a current valid Letter of Compliance issued by a Massachusetts licensed lead paint inspector or a building permit that verifies construction after December 31, 1977. Letters of Compliance issued prior to July 1, 1988 do not satisfy current federal lead regulations and are not acceptable for participation in the PBV program.)

982.402 (a)(3) Family unit size

982.402(c)Effect of family unit size, maximum subsidy

982.402(d) Size of unit occupied by family.

982.403 Terminating HAP contract when unit is too small

982.405(a) HQS Inspections

982.406 Enforcement of HQS.

2.5 SUBPART J: HAP CONTRACT AND OWNER RESPONSIBILITY

This one section does not apply:

982.455 Automatic termination of HAP contract.

2.6 SUBPART K: RENT AND HOUSING ASSISTANCE PAYMENT

Nothing in Subpart K applies except for:

- (i) 982.503 Payment standard schedule; however, provisions authorizing a higher payment standard for reasonable accommodation does not apply.*
- (ii) 982.516 Family Income and Composition, regular and interim examinations*
- (iii) 982.517 Utility Allowance Schedule.*

2.7 SUBPART M: SPECIAL HOUSING TYPES

982.603 SRO Lease and HAP contract
982.607 Congregate Housing Lease and HAP contract
982.611 Group Home Lease and HAP contract
982.613 (c)(2) Payment standard for person in Group Home
982.615 through 618 Shared Housing
982.619 Cooperative Housing
982.622 through 624 Manufactured home space rental
982.625 through 641 Homeownership option

31.10 ATTACHMENT B-Selection Criteria for DHCD Development Programs

Twice yearly, the Division of Housing Development (DHD) issues a NOFA for sponsors seeking funding for rental housing development projects. Applicants are required to submit proposals via a One-Stop application package and those materials are reviewed by DHD staff with the support of contract architects. Deals seeking HIF, FCF and/or CBH funding also are reviewed by Community Economic Development Assistance Corporation (CEDAC) staff. Proposals are reviewed according to selection criteria, generally outlined in the Commonwealth's Qualified Allocation Plan and award decisions are made based on these reviews, along with the availability of funds. Often, projects must apply several times before receiving an award. Mass Housing Investment Corporation (MHIC) designed, owns and operates this OneStop system for the Commonwealth's development programs. The QAP and all other related selection criteria are published on the Division's website. The One-Stop application package is available at: www.onestopapp.com

Linking DHCD's PBVs with these development projects makes it possible for the division to meet their LIHTC goal of setting aside 10% of the units for households with incomes at or below 30% of area median income and to achieve the same outcomes for the other DHCD-funded development programs.

Low Income Housing Tax Credits (LIHTC)

LIHTC Description

The Low Income Housing Tax Credit program is a federal program overseen by the U.S. Department of the Treasury through the Internal Revenue Service (IRS). The program is administered in all 50 states by state allocating agencies. The tax credit program was first implemented in 1987 and has supported the construction or rehabilitation of over 1.5 million rental units since that time. Each allocating agency receives a certain amount of credit annually to award to eligible projects. The allocating agency in Massachusetts is the Department of Housing and Community Development (DHCD). Two other agencies – MassHousing and MassDevelopment – are sub allocators of certain types of credit on behalf of DHCD. The sponsor of a rental project submitted for a tax credit allocation has the ability to sell the credits to an investor and use the sale to generate equity for the project.

The tax credit program supports the construction or rehabilitation of multifamily rental housing for individuals or households whose incomes are less than 60% of area median income. Rents in tax credit projects are established to be affordable to such households.

DHCD's current tax credit portfolio consists of 450 projects with over 30,000 units located throughout the state. The Department monitors the projects regularly to verify physical stability and ensure that the proper income levels are being served.

LIHTC Funding Competitions

Each state is required to publish selection criteria for projects annually in a public document called the **Qualified Allocation Plan**. In accordance with this requirement, DHCD publishes its selection criteria and holds **two funding competitions** each year to award the credit. Other DHCD rental sources such as HOME are made available during the same competitions.

LIHTC Evaluation and Selection Criteria

During its funding competitions, DHCD selects tax credit projects based on criteria such as: appropriateness of site; design and proposed scope of work; overall cost and amount of subsidy; target income levels; capacity of development team; marketability and feasibility of a project.

LIHTC Selection Team

Projects seeking LIHTC alone or in combination with other DHCD rental resources are reviewed and unwritten by the LIHTC staff with the support of contract architects.

HOME Investment Partnerships Program (HOME)

HOME Description

HOME is a federally-funded program that assists in the production and preservation of affordable housing for low and moderate-income families and individuals. The program funds a broad range of activities including new construction and acquisition and rehabilitation of existing properties.

HOME Funding Competitions

DHCD makes HOME funding available through the One-Stop NOFA issued twice yearly. For-profit and non-profit developers, non-profit organizations designated as Community Housing Development Organizations (CHDOs) and municipalities in cooperation with for-profit or non-profit developers are eligible to apply for funding. All rental projects are awarded funds on a competitive basis.

HOME Evaluation and Selection Criteria

A number of selection criteria are taken into consideration when determining which projects will receive funding. An applicant must demonstrate that the project has: a strong overall concept, competent development team, suitable site and design, and is financially feasible. The scope of rehabilitation or construction is a factor, as well as the total development cost for properties included in the proposal. There must be a demonstrated need for the project in the target neighborhood and evidence of local support. Furthermore, a project's readiness to proceed and the developer's form of site control are evaluated during a project's review.

HOME Selection Team

Applicants may seek HOME funds in conjunction with other DHCD resources, with the exception of DHCD Housing Stabilization Funds (HSF). If a project is seeking both HOME monies and Low Income Housing Tax Credits (LIHTC), then the LIHTC staff will take the lead during the project's review and underwriting process. For projects not seeking LIHTC, the HOME and Housing Stabilization Fund teams partner in the review and rely on input from contract architects.

Housing Stabilization Fund (HSF)

HSF Description

The Housing Stabilization Fund (HSF) is a state funded bond program that assists in the production and preservation of affordable rental projects that serve both families and individuals with annual incomes at or below 80% of the area median income.

HSF Funding Competitions

DHCD makes HSF funding available through the One-Stop NOFA twice yearly. For-profit and non-profit developers, local housing authorities and municipalities in cooperation with for-profit or non-profit developers are eligible to apply for funding. All projects are awarded funds on a competitive basis.

HSF Selection and Evaluation Criteria

A number of selection criteria are taken into consideration when determining which projects will receive funding. An applicant must demonstrate that the project has: a strong overall concept, competent development team, suitable site and design, and is financially feasible. The scope of rehabilitation or construction is a factor, as well as the total development cost for properties included in the proposal. There must be a demonstrated need for the project in the target neighborhood and evidence of local support. Furthermore, a project's readiness to proceed and the developer's form of site control are evaluated during a project's review.

HSF Selection Team

Applicants may seek HSF funds in conjunction with other DHCD resources, with the exception of DHCD HOME funds. If a project is seeking both HSF monies and Low-Income Housing Tax Credits (LIHTC), then the LIHTC staff will take the lead during the project's review and underwriting process. For projects not seeking LIHTC, the Housing Stabilization Fund and HOME teams partner in the review and rely on input from contract architects.

Facilities Consolidation Fund (FCF)

FCF Description

FCF is a state bond-financed program that funds community-based housing for clients of the Department of Mental Health (DMH) and Department of Mental Retardation (DMR). Only non-profit housing development agencies are eligible to apply. FCF contributes a maximum of 50% of total project development costs, with a recommended limit of \$500,000 per project.

Loans are structured as 0%, deferred payment loans with a 30-year term. DHCD may extend the loan period for an additional 10 years if the property

continues to be used for DMR or DMH-approved purposes. Loans are subject to deed restrictions and title transfer agreements as provided for in loan documents, including a promissory note, mortgage and land use restriction.

FCF Funds Made Available on an On-going Basis

All housing must be pre-approved by DMR or DMH. These agencies provide services to residents, and all residents are DMH or DMR clients. (N.B. DHCD has advised DMH and DMR that no PHA can accept PBA projects that *require* applicants to be clients of a particular organization or have a particular disability in order to be eligible for selection. The basis for selection must be in accordance with 983.251(d). See Section 31.6.16 for details. Projects are underwritten for economic feasibility by DHCD's technical assistance partner, the Community Development Economic Assistance Corporation (CEDAC).

DHCD makes FCF funding available continuously. Applicants must complete a pre-application and, if approved, submit a *One Stop Housing Application* to both DHCD and CEDAC.

FCF Selection and Evaluation Criteria

FCF loans may be used for the reasonable and necessary hard and soft costs to develop an eligible project, including costs of acquisition, construction, architecture/engineering, environmental testing and remediation, insurance, taxes, surveys and permits, development consultants, legal services, financing, relocation, title and recording, inspection services, marketing and rent-up, and developer overhead and fees.

FCF Selection Team

DHD and CEDAC staff review these rolling applications and make selection recommendations.

Housing Innovations Fund (HIF)

HIF Description

HIF is a state bond-financed program that assists in the production and preservation of affordable "innovative" housing for low and moderate-income families and individuals. HIF projects typically involve a substantial level of supportive services for residents, including single person occupancy (SRO) housing, senior housing, and various kinds of transitional housing for homeless people, veterans, victims of domestic violence and recovering substance

abusers. The program funds a broad range of activities including the hard and soft costs of acquisition, renovation and new construction. HIF loans are for 30 years and the maximum amount is typically \$500,000 or up to 50% of the projects total development cost (TDC). 50% of residents in HIF projects must be low income (80% AMI or less), and 25% must be extremely low income (30% AMI or less).

HIF Funding Competitions

DHCD makes HIF funding available through the One-Stop NOFA twice yearly. Only non-profit developers are eligible for HIF. Projects are awarded funds on a competitive basis.

HIF Evaluation and Selection Criteria

A number of selection criteria are taken into consideration when determining which projects will receive funding. An applicant must demonstrate that the project has an HIF-eligible purpose, a competent development team, suitable site and design, and is financially feasible. The project must from have secured or be able to secure funding from other sources. The adequacy of the scope of rehabilitation or construction is considered, as well as the total development cost. The appropriateness, quality and continuing availability of supportive services must be a demonstrated. Finally, the project's readiness to proceed is evaluated.

HIF Selection Team

Applicants typically seek HIF funds in conjunction with other DHCD resources. If a project is seeking HIF in combination with Low Income Housing Tax Credits (LIHTC), HOME or HSF funds, then those program's staff typically take the lead during the project's review and underwriting process.

DHCD subcontracts with the Community Economic Development Assistance Corporation (CEDAC) to provide technical assistance, underwriting review and loan closing services for HIF.

Community Based Housing (CBH)

CBH Description

CBH is a state bond-financed program that provided 0% deferred loans for housing for disabled people who are institutionalized or at risk of institutionalization. Clients of the Department of Mental Health (DMH) and the Department of Mental Retardation (DMR) are not eligible for CBH units (because they are eligible for the state-financed FCF, see above). Clients must be certified by the Massachusetts Executive Office of Health and Human Services (EOHHS) through its lead agency for CBH, the Massachusetts Rehabilitation Commission (MRC). (N.B. DHCD has advised EOHHS and MRC that no PHA can accept PBA projects that *exclude* applicants who happen to be clients of a particular organization or have a particular disability. The basis for selection must be in accordance with 983.251(d). See Section 31.6.16 for details.

Only non-profit housing development agencies, or entities controlled by non-profits, are eligible to receive these loans. CBH contributes a maximum of 50% of the total project development costs, with a limit of \$75,000 per project. Typically, a few (2-8) CBH units are included in a larger rental development.

CBH loans are structured as 0% deferred payment loans with a minimum 30-year term. DHCD may extend the loan period in 10 year increments if the property continues to be used for approved purposes. Loans are subject to deed restrictions and title transfer agreements as provided for in the loan documents, including a promissory note, mortgage and land use restriction.

CBH Funds Made Available On an On-Going Basis

At present, DHCD makes CBH funds available continuously and also through its biannual rental housing funding rounds. In any case, applicants must submit a complete *One Stop Housing Application* to both DHCD and CEDAC.

All housing units must be pre-approved by MRC. Various state and private agencies provide services to residents, although not all residents require services to maintain a tenancy in a CBH unit.

CBH Selection and Evaluation Criteria

All CBH projects are evaluated for threshold eligibility, financial feasibility, readiness to proceed, appropriateness for the intended resident population, and quality of available support service plans.

Applicants typically seek CBH funds in conjunction with other DHCD resources through the biannual rental housing funding rounds. If a project is seeking funds in combination with LIHTC, HOME, FCF or HSF funds, then those program's staff typically take the lead during the project's review and underwriting process.

DHCD subcontracts with CEDAC to provide technical assistance, underwriting review and loan closing services for CBH.

**31.11 ATTACHMENT C-Subsidy Layering Review Checklist for Projects Using
Section 8 PBV**

___Project Name and Location:

___Narrative Description of Project, including:

- ___Total number of units
- ___Type of unit, bedroom distribution
- ___Portion and type of units receiving assistance, compliance with
partial assistance requirements

___Sources of Funds:

- ___Each Source Listed Separately with Details
 - ___Principle
 - ___Interest Rate
 - ___Amortization Term

___Uses of Funds:

- ___Detailed Breakdown of Project Costs, including hard and soft
cost items

___Commitment Letters from All Sources of Financing Disclosing Significant
Terms

___Tax Credit Allocation Commitment Letter from State Housing Finance
Agency

- ___Amount of Credits Reserved, or
- ___IRS Form 8609

___Historic Tax Credits (as applicable)

- ___Amount of Credit

____Equity Investment Commitment Letter

____Amount of Investment

____Equity Contribution Schedule showing amount and timing

____Bridge Loan Details (as applicable)

____Appraisal Report establishing the “as is” value of the property before construction or rehabilitation, and without consideration of any financial implications of tax credits or project-based assistance.

____Operating Proforma showing projected project income, expenses and cash flow for at least fifteen years out

____PHA Approval of PBA Voucher Assistance for Project

____Standard Disclosure and Perjury Statement, Identity of Interest Statement

____Form HUD-2880

____Initial Contract Rents

____PHA letter confirming gross contract rents with applicable tenant utility allowances

31.12 Attachment D-Davis-Bacon Requirements

www.access.gpo.gov/davisbacon

Monitoring D-B consists of downloading the current wage and fringe benefit rates from the above-referenced web address for all trades people and apprentices who will be employed by the GC, and all subcontractors, and establishing a D-B enforcement file. Each week the GC is responsible for submitting to the RAA a certified wage report, preferably on Form WH-347. All the wage reports and any other documents pertinent to the D-B compliance must be kept in the D-B enforcement file.

In the event that a complaint of non-compliance with D-B is lodged with the HUD Labor Relations Office (LRO), it will request a complete copy of the enforcement file as part of its investigation, so it is important that this file always be kept current. Should the RAA interviews with employees indicate a possible problem with reported versus actual wages paid, the RAA must first bring this to the attention of the GC in writing. If the apparent discrepancy is not resolved to the satisfaction of the RAA then the RAA must report it in writing to the LRO, with a copy to DHCD. A copy of the discrepancy letter mailed to the GC, along with a copy of any response, must accompany the report.

The LRO does not require that the GC use form WH-347, provided that all the same information is included on the GC's own form. If the GC elects not to use WH-347, which has the certification language on the back, then the GC must either use the Payroll Certification form WH-348, or attach to the payroll report a copy of the back of WH-347 or use the exact word for word language that it contains to certify the payroll separately. (Forms are available at www.hudclips.org/subscriber/html/forms.htm)

The payroll report(s) must list all employees, both those directly employed by the GC and all those working for subcontractors. If form WH-347 is not used by the GC, the format used must contain all the information listed on that form. These reports should be numbered sequentially starting with number One (1) for the first week of construction and continuing each week until the project is completed and accepted for HAP by the RAA. This sequential numbering relieves the GC of the responsibility to submit a "no work" payroll for any period of temporary work stoppage.

At the start of construction the RAA must visit the site and insure that the poster- Notice to Employees - (form WH-1321) and the-Project Wage Rate Sheet- are prominently displayed in a place where all employees are likely to see them and where they are protected from the elements. The RAA should interview a representative number of employees of each contractor on-site at this initial visit using form HUD-11 to confirm wage rates, fringe benefits and overtime over 40 hours

Periodically during the course of the construction, the RAA should visit the site to monitor that the work is being done in a manner that will insure compliance with HQS and to interview some employees to insure that they are receiving the amounts shown on the certified weekly payroll(s). Again, the RAA may request DHCD assistance with these tasks.

At completion of the work, and certification by the owner that it was completed in accordance with HQS and all the AHAP requirements and that the owner complied with labor and equal opportunity requirements, the RAA may accept the units for HAP contract. In addition to these required documentations, the RAA must get a copy of the certificate of occupancy and if applicable the lead compliance documentation. Upon final HQS inspection by the RAA to insure that all the PBV units are in compliance with HQS and additional DHCD standards, the HAP contract may be executed. In a rehab project where there are in-place tenants or returning from temporary relocation tenants, these must be certified as program eligible prior to HAP execution.